

**REMARKS**

Attached hereto is a Petition for an Extension of Time.

Entry of this Amendment is proper under 37 CFR §1.116, since no new claims or issues are presented and claim amendments are believed consistent with the current understanding of the Examiner's position on which claims are allowed and allowable.

Claims 1, 2, 4-30, and 32-34 are all the claims presently pending in the application.

Claims 3 and 31 are canceled.

It is noted that the claim amendments are made only for more particularly pointing out the invention, and that no amendment to any claim herein should be construed as a disclaimer of any interest in or right to an equivalent of any element or feature of the amended claim.

Applicant gratefully acknowledges the Examiner's indication that claims 6-18 and 21-30 are allowed. Although the Examiner does not explicitly state that claims 3 and 5 would be allowable if rewritten in independent format, such intention is understood because these two claims are listed as "objected to" on the Office Action Summary sheet, these two claims are not listed in the prior art rejection, and there is no other objection section in the Office Action.

Accordingly, Applicant has amended claim 1 (as well as substantially similarly amending independent claims 19, 33, and 34) to incorporate therein the allowable subject matter of canceled claim 3 and submits that claims 1, 2, 4, 5, 19, 20, and 32-34 are also now allowable.

Claims 1-2, 19, 20, and 31-34 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Bang, et al. (U.S. Patent No. 6,222,873). Claim 4 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Bang, in view of Yoon (U.S. Patent No. 6,396,868).

These rejections are respectfully traversed in the following discussion.

**I. THE CLAIMED INVENTION**

As described and exemplarily defined in claim 1, the present invention is directed to a communication apparatus wherein transmission data containing a first signal and a second signal different from said first signal is transmitted.

The communication apparatus includes a transmission power controller for controlling at least one of a transmission power of the first signal and a transmission power of the second signal in such a manner that the transmission power of the first signal is made substantially coincident with the transmission power of the second signal. A transmitter transmits the transmission data containing the first signal and the second signal in a transmission power controlled by the transmission power controller. The first signal includes a pilot signal.

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In an exemplary scenario addressed by the present invention, conventional CDMA communication methods fail to recognize that power of the pilot signal portion is  $N^2$ , whereas the power for the data signal portion is  $N$  when  $N$  pieces of transmission data stream are simultaneously transmitted by a multi-code transmission spread method. This difference in power causes the signal at the received mobile station to deviate from the ideal case in which preferably substantially constant power is desired for all signal portions.

The claimed invention, on the other hand, provides a method that can control transmission power even during the conventional CDMA multi-code scenario, thereby controlling transmission power for stable conditions.

## II. THE PRIOR ART REJECTIONS

The Examiner alleges that Bang anticipates the present invention as defined by claims 1, 2, 19, 20, and 31-34, and, when combined with Yoon, renders obvious the present invention as defined by claim 4.

Applicant respectfully disagrees, as follows.

The Examiner relies upon the description at lines 50-60 of column 10 for alleging that Bang teaches that the "... said transmission power of the first signal is made substantially coincident with said transmission power of the second signal."

Applicant previously submitted that the description at lines 50-60 does not reflect a suggestion for power settings under normal operation, but rather reflects a mathematical basis for comparison of the statistical distribution of the peak-power-to-average power between the prior art device (e.g., prior to Bang) and Bang's invention. Thus, Bang attempts a manipulation of hypothetical conditions so as to be able to compare "apples" (e.g., prior art) to "apples" to show the utility of Bang versus the prior art device.

However, rather than continue to belabor the point, Applicant prefers at this point to attempt to expedite prosecution by incorporating into the rejected claims the contents that is understood as being allowable (e.g., the inclusion of the pilot signal terminology into independent claims 1, 19, 33, and 34).

It is also noted, for the Examiner's benefit upon re-evaluation of the above disputed point, that at lines 54-56 of column 10, Bang explicitly states that "... and the power level of the pilot channel is controlled to be lower than the power level of the communication channel by 4 dB."

Therefore, Applicant submits that the present invention is clearly patentable over the prior art currently of record.

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### III. FORMAL MATTERS AND CONCLUSION

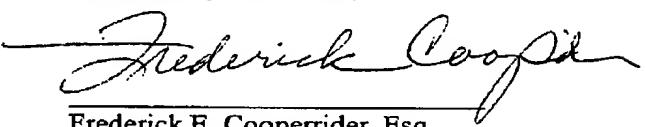
In view of the foregoing, Applicant submits that claims 1, 2, 4-30, and 32-34, all the claims presently pending in the application, are patentably distinct over the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Attorney's Deposit Account No. 50-0481.

Respectfully Submitted,

Date: 10/7/04

  
Frederick E. Cooperrider, Esq.  
Registration No. 36,769

**McGinn & Gibb, PLLC**  
8321 Old Courthouse Road, Suite 200  
Vienna, VA 22182-3817  
(703) 761-4100  
**Customer No. 21254**

#### CERTIFICATION OF TRANSMISSION

I certify that I transmitted via facsimile to (703) 872-9306 this Amendment under 37 CFR §1.116 to Examiner P. Sobutka on October 7, 2004.

  
Frederick E. Cooperrider  
Reg. No. 36,769

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